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**COVER**

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**SHEET**

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**FAX**

TO: Examiner Willmon Fridie, Jr.  
USPTO  
Group 7343  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**JUL 12 2005**

Telephone: (571) 272-4476  
Facsimile: (703) 872-9306

Pages: 9 (including this cover sheet)

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July 12, 2005

Re: USSN 09/213,169  
Filed: December 17, 1998  
Docket: 78685F-P

Dear Examiner Fridie, Jr.:

Faxed herewith is a copy of the Notice of Appeal that was timely mailed on September 16, 2003, which included an authorization to charge any fees to applicants' deposit account. The USPTO acknowledged receipt of the Notice of Allowance as indicated in the Advisory Action (mailed September 30, 2003) on September 22, 2003 and also indicated in the 'ORDER RETURNING UNDOCKETED APPEAL TO Examiner'. Applicants hereby request that the appropriate fee be charged to applicants' deposit account and the Appeal be docketed. Per Examiner Fridie, Jr.'s request, a copy of the communication from the Board of Appeals entitled 'ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER' is also included.

From the desk of...



Frank Pincelli, Esq.  
EASTMAN KODAK COMPANY  
343 State Street  
Rochester, NY 14650-2201  
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Fax: (585) 477-4646

F-P:djw

F-P

## THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

EASTMAN KODAK CO.

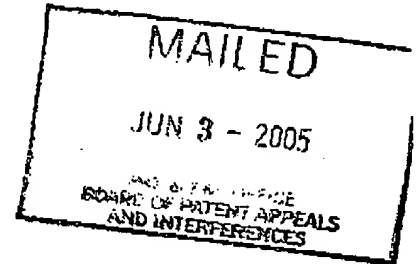
JUN - 7 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT LEGAL STAFF BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte JOHN R. FREDLUND,  
JOSEPH A. MANICO and  
RICHARD G. MACKSON

Application No. 09/213,169



## ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 7, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On September 22, 2003, appellants filed a Notice of Appeal. A review of the file reveals that the fee was not charged for the Notice of Appeal. Before further review of this file, the above mentioned fee must be applied to the appellants' account.

Application No. 09/213,169

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Accordingly, it is

**ORDERED** that the application be returned to the Examiner for entry of the Notice of Appeal fee, and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

CRAIG FEINBERG  
Program and Resource Administrator  
(571) 272-9797

CF/dal

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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Alexandria, Virginia 22313-1450  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/213.169	12/17/1998	JOHN R. FREDLUND	78685F-P	7343

1333 7590 09/30/2003

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OCT 03 2003  
PATENT LEGAL STAFF

EXAMINER

FRIDIE JR, WILLMON

ART UNIT

PAPER NUMBER

3722

DATE MAILED: 09/30/2003

entered by GLB

Please find below and/or attached an Office communication concerning this application or proceeding.

Examiner Fridie  
571472-4476

**Advisory Action**

Application No.

09/213,169

Applicant(s)

FREDLUND ET AL.

Examiner

Willmon Fridie, Jr.

Art Unit

3722

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
**ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 22 September 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
 2. ☐ The proposed amendment(s) will not be entered because:  
 (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ they raise the issue of new matter (see Note below);  
 (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
 7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

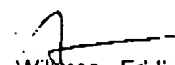
Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
 10. ☐ Other: \_\_\_\_\_

  
 Willmon Fridie, Jr.  
 Primary Examiner  
 Art Unit: 3722

Continuation Sheet (PTOL-303)  
29/213,169

Application No.

Continuation of 5, does NOT place the application in condition for allowance because: THE COMBINATION OF MANICO IN VIEW OF SHIOTA CLEARLY DISCLOSES THE CLAIMED APPARATUS.

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JUL 12 2005

Inventor(s)	<u>John R. Fredlund, et al</u>
Serial No.	<u>US 09/213,169</u>
Paper Submitted	<u>Notice of Appeal</u>
Sender (initial)	<u>Frank Pincelli/djw</u>
Docket No.	<u>78685X/F-P</u>
Please stamp with date of receipt and return this card to the addressee.	
PATENT LEGAL STAFF	

